

Crisis, Migration and Precarious Work: impacts and responses

Focus on European Union member countries

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Introduction

It is often said that migrants –like ethnic minority workers-- are the last hired and first fired. This is certainly the case today as a consequence of the global economic and financial crisis.

The global crisis beginning in late 2007 led to a serious slowdown in world economic activity, particularly affecting Western Europe and North America, and to a lesser but important extent, Central and Eastern Europe.

Massive layoffs occurred and continue to take place; they often affected temporary and migrant workers from the start. Some companies have resorted to short-time arrangements, such as reduced hours and pay for personnel remaining on the payroll or putting workers on part-time employment or unpaid leave. However, migrant workers in particular have faced what may be structurally-defined shifts into more precarious work and working conditions.

At the same time, under tremendous political and financial pressures, governments themselves are *smashing the State* as it were: eliminating social protection, social support and welfare programs and other expenditures that compensated for unemployment and precarious exploitative employment by aiding workers and their families to obtain basic nutrition, housing, health care and schooling.

Despite this context, commitment and efforts abound among social actors --trade unions in particular-- to convert ever more widespread precarious work into decent work; work where basic labour rights are respected. Defence is also mounted for retaining government responsibilities and the role of the State to sustain a regulatory role, provide a social protection floor and ensure minimal well-being for all.

This paper provides a survey of data and analysis regarding effects of the crises on migrant and domestic workers in Europe. It assembles material from a range of research reports, policy briefs and other sources not heretofore combined in one document. It does not offer new, unpublished empirical data. While analysis of the multiple-layered international crises is beyond the scope of this review, the deepening financial and employment crisis currently facing the “Eurozone” is noted.

The paper identifies several measures and incentives by governments and social partners aimed at remedying precarious employment situations of migrant and domestic workers in Member States of the European Union (EU); it reviews several sets of ‘good practice’ policy and practical approaches in EU Member States. The gender dimension is addressed; some gender-specific data is provided. It concludes with suggestions for trade union action on a “rights based approach” to migration, in particular to protecting and support migrant workers in precarious employment situations.

Data for this report is based on a review of literature on migrant and domestic workers focussing on precarious situations and impact of the financial and employment crises. It includes secondary data drawn from research and reports by EU institutions, European research and statistic centres as well as by international organizations including the ILO.

This analysis focusses on several key questions:

- a) *Downsizing* employment of foreign workers
- b) Departures from contrasted with arrivals to and stocks of foreign workers in Europe
- c) *Precarisation* of terms and conditions of work
- d) Deterioration of social protection and access to social services
- e) Incidences and apparent trends of increased discrimination and xenophobic behaviour

The data available is limited and very uneven across these effects and among different countries. While a flurry of assessments and research reports by a range of institutions appeared in 2009, almost no overviews of crisis impacts on migrants have been published since early 2010. However, several detailed country studies appeared in 2011.

An excerpt from a recent report on the UK accurately sums up features also described in detailed reports on Belgium and Germany, consistent with other earlier and recent data from various EU member countries:¹

Migrants, especially those from outside the EU15 who have limited access to social security provisions, face the paradoxical position of being welcomed by businesses and the state due to their high flexibility and minimal utilisation of the welfare state on the one hand, whilst facing increasing unease and hostility from anti-immigrant groups, the same state that welcomes them and large numbers of the general public on the other. The highly unregulated and flexible economy has allowed many migrants to easily find work and businesses to remain competitive whilst simultaneously creating the conditions for widespread exploitation and producing divisions amongst workers, both between (native) born/migrant and between different groupings of labour migrants. Exploitation is linked to a hierarchy of vulnerability with the rights and entitlements guaranteed or not by a migrant’s legal status, the legal provisions between the UK and a migrant’s ‘home’ country, unionisation, racism, contract type and flexibility all affecting this vulnerability hierarchy.

With the onset of the economic crisis there has been a significant drop in the numbers of people migrating to the UK. The downturn has also led to increased levels of unemployment, but this has not disproportionately affected migrants in already working in the UK. There are serious consequences for the social protection of migrants however, especially in regards to: welfare cuts that will result in even fewer checks on employment practices and increased living costs, the increased downwards pressure on profit margins and numbers of UK-born workers ‘forced’ into the labour market due to changing unemployment regulations and cuts in housing benefits.

¹ Ian M. Cook, *Hierarchies of Vulnerability: Country report United Kingdom; Labour migration and the systems of social protection*, Multikulturni Centrum Praha, Czech Republic, 2011

I. CRISIS AND GLOBAL IMPACT ON MIGRANTS

Migrants are generally among the workers most hit by economic downturns for several reasons. Migrant labour is often used as a cyclical buffer, like other macroeconomic policies aimed at maximizing growth and minimizing unemployment. For migrants, this means they are often the last to be hired and the first to be fired and their employment relationships are frequently non-standard, and in poorly regulated sectors or activities. In times of economic insecurity migrants easily become scapegoats; xenophobic sentiments and discrimination against migrant workers rise. This alone presents one of the most formidable challenges for social peace and cohesion, and therefore for governance, in hard times.²

Some data and general assessments usefully set the situation of EU countries in its global context. The ILO Global Employment Trends report (GET) for 2009 documented the dramatic increase of people sent into the ranks of the unemployed, becoming working poor or being put in vulnerable employment following the globalized descent into economic/financial crisis beginning in mid-2007. That GET report estimated an increase in global unemployment in 2009 compared to 2007 by a range of 18 million to 30 million workers, and more than 50 million if the situation continued to deteriorate.³

The number of working poor – people earning below the US\$2 per person, per day poverty line in poor countries – was predicted to rise to 1.4 billion, or 45 per cent of all the world's employed. In 2009, the proportion of people in vulnerable, precarious employment – either contributing family workers or own-account workers who are not likely to benefit from safety nets that guard against loss of incomes during economic hardship – was anticipated to reach a level of 53 per cent of the employed population, according to the worst case scenario.⁴

A flurry of global and regional assessments of the crisis impact on migrants and migration were made in the course of 2009 (listed in annex). Recent assessments in 2011 and data from a number of European countries generally reinforce assessments made in 2009. In aggregate terms, these assessments support the following observations:

- 1) Migrants and persons of foreign origin have been and continue to be hard hit, they were disproportionately among those laid off or rendered unemployed from the outset and they remain among the 'hard core' unemployed. Paradoxically, migrants employed in some sectors (health care, certain services, even construction in some countries) have been less affected, in some cases maintaining jobs at rates comparable to or higher than nationals.
- 2) Many among those migrants who remained employed were affected by reductions in pay, working time, and worsening working conditions-- as were working people more generally.
- 3) Migrant workers –usually without access to social “safety nets”and often lacking established family support-- have frequently been compelled to take any work offered, generally at more substandard pay and abusive conditions than before. This represents a particularly urgent driver for precarisation of work and working conditions.

² This section draws on an earlier assessment by the author: *The impact of the financial crisis on migrant workers* first presented at the 2nd Preparatory Meeting for 17th OSCE (Organization for Security and Cooperation in Europe) Economic and Environmental Forum in Tirana, March 2009. Online at: <http://www.osce.org/eea/36454>

³ ILO: *Global Employment Trends* (GET), International Labour Office, Geneva, January 2009

⁴ *ibid*

- 4) Many countries reduced official quotas or intake of foreign workers from early on in the crisis in 2008-2009. Some countries conducted deliberate incidences or practices of exclusion and expulsion of migrant workers. However, the latter was subsequently tempered by protests and by reluctant recognition of continuing needs for foreign skills and labour.
- 5) Most migrant workers established in Europe did not return home, unless forcibly expelled. This was the case even when offered financial incentives to voluntarily depart. Conditions in homelands from which many migrants originated were still worse or remain relatively worse. While there may be opportunities for some kind of work in host countries, none at all are perceived 'at home' in many cases. Furthermore, situations in origin countries have usually evolved to the extent that repatriation, insertion and (re)adaptation in homelands represent far greater challenges than staying put for those resident for several years in Europe.
- 6) The impact of already minimal social protection was and continues to be compounded by crisis conditions and cutbacks. Migrants are increasingly excluded from social safety net support; previous support for migrants in irregular situations has tended to disappear.
- 7) Scapegoating of migrants and xenophobic violence against foreigners are manifestly on the rise across the region –and throughout the world. This has been expressed in murders and lynchings of migrants in some countries, in generalized expressions of anti-foreigner sentiment, in hostile political discourse, and in calls for exclusion of migrants from access to labour markets and social protection benefits. Nonetheless, the evident increase in xenophobic violence has been understated or ignored in some official assessments.
- 8) The financial crisis affected men and women migrant workers differently as they are differently clustered in jobs and economic sectors. Male migrants were more severely impacted by job losses; women migrants tend to be employed in sectors and services less subject to fluctuations. However, female foreign workers increased their share of total foreign workforces in some countries and the proportion of migrant families supported by female heads of household is likely to have risen.
- 9) Irregular migration has been and remains a quasi-structural feature across Europe, as a consequence of sustained labour market demand for foreign skills and labour, in particular for cheap, flexible and unprotected migrant labour, in the face of restrictive immigration policies and political constraints.
- 10) Migrant remittances home declined from Europe (although not from some other regions) in 2008 and 2009; they subsequently stabilized in aggregate terms and in some cases increased. The latter may reflect sustained structural need for and employment of foreign workers as well as deteriorated situations in some home countries that compel migrants to 'tighten the belt' even further in order to send home larger amounts of their earnings.

II. CRISIS IMPACT ON MIGRANT WORKERS IN EUROPE

Research data and observations presented below draw out examples of the specific impact on migrants in Europe and migration to Europe; the information available generally coincides with the observations above.

The financial crisis has had a higher impact on certain sectors of the economy, some of which employ large numbers of migrant workers. Worldwide as in Europe, migrant workers are particularly concentrated in construction, manufacturing, agriculture, hotel and catering, and health and care work,

including domestic services. These sectors have also been especially hit by the current crisis.⁵ The impact on migrants was more visible in countries where the crisis began earlier, notably Spain, Ireland, the United Kingdom as well as the United States. For example, in Spain, the unemployment rate of migrants rapidly reached 17 per cent.⁶

However, very different impacts continue to be the case between countries, migrant groups, and skills levels. A study at end 2009 (two years after crisis began) noted “By using data collected both in the destination and origin country, we find evidence that the economic crisis did not affect quantitatively Tunisian migration to Italy, nor impact the economic conditions of Tunisians migrants in Italy.”⁷

Context

The foreign labour force in most Western European countries represents 8-11% of the workforce; in Belgium it is 9.4%. In Switzerland, 30% of the work force is foreign born, in Luxembourg 40%.

Taking into account persons with a “migrant background, one or both parents being immigrants, shows the even more significant contribution of migration to work forces and population in most Western European countries, around 20% or more. The immigration contribution in a growing number of European cities is even more striking. Recent data shows that 48% of the population of Vienna is immigrant or has at least one foreign born parent.⁸

In Germany:

On the 31st of August 2009, Germany had a registered population of about 81,8 million people. Among these, more than 16 million people were having a “*migration background*” - that is 19,6 per cent of the total population. Among those aged below 25, the percentage of persons with migration background is even higher, reaching 28 per cent.⁹

Indicators of differential situations for migrants were already dramatic prior to the crisis. Unemployment rates were generally significantly higher for foreign origin workers, in many countries around two times higher than for nationals.

As also reported regarding Germany:

At the same time, for decades the country has not done enough to activate and use existing potentials among its resident migrant population... this has lead to a situation in which migrants – no matter of what origin – generally do find themselves in a weaker and more vulnerable position on the labour market. In the consequence, and as a result, persons of migrant background are at a greater threat of unemployment and precarious work relationships than their German fellow countrymen. Accordingly, the labour market integration of migrants was problematic already prior to the financial crisis of autumn 2008.¹⁰

⁵ For a detailed and systematic analysis of developments and prospects for migration to and within OECD countries, please refer to OECD Working paper DESLSA/ESLSA/WP2(2009)3 *International Migration and the Economic Crisis: Understanding the links and shaping the policy responses*.

⁶ OECD, *International migration and the economic crisis: understanding the links and shaping policy responses*, Organization for Economic Cooperation and Development (OECD), Paris, 2009. page 7.

⁷ CARIM: *La crise financière mondiale: quel impact sur l'avenir de la migration des Tunisiens en Italie*

⁸ Habibi Fourati. Consortium for Applied Research on International Migration (CARIM) , December 2009

⁸ Reported to author in July 2011 by August Gachter, researcher at Center for Social Innovation, Vienna

⁹ Björn Jungius: *Crisis of Migrant Employment in Germany: Country report **Germany**; Labour migration and the systems of social protection..* Multikulturelles Zentrum Praha, Czech Republic, 2011xx

¹⁰ Jungius (ibid), page xx

As data from discrimination practice testing studies conducted in ten European countries under ILO supervision or using the “ILO methodology” demonstrated discriminatory behaviour by labour market gate-keepers resulted in high levels of unjustified differential treatment for persons of foreign origin. Job candidates of foreign origin or extraction equally qualified with similar training and experience to those of national characteristics had to make four to five times as many applications for job openings to land positive responses.¹¹

1. Loss of employment

Available data shows that general unemployment rates among foreign-born/foreign-origin workers increased significantly over their already higher proportions prior to the crisis. In Sweden for example, the number of unemployed immigrants born outside Europe jumped from 17,000 persons pre-crisis to 78,000 in 2009 and 2010.¹² Unemployment rates are clearly graduated by origins: in Sweden, 21.6% for “third country nationals”, 12.2 % for persons born in Europe, and 7% for the Swedish population.¹³ Data from Germany suggests that even when employment improves, the gap between ‘native’ and foreign origin workers remains huge. In 2009, 17 per cent of foreigners were unemployed – more than 540.000 people – in contrast to 7,8 per cent of Germans. In November 2010, with economic recovery underway, 14,6 per cent of foreigners were unemployed contrasting to 6,3 per cent of Germans.¹⁴

Construction, wholesale and hotels and restaurants are particularly sensitive to swings in employment but others such as health and social work and education are not. Pre-crisis employment rates of foreign workers in construction were especially high in southern European countries that, prior to the crisis, had experienced booms in residential development. In Greece 32% of all construction workers were foreign born, in Spain 21%, in Portugal almost 15% and in Italy close to 14%. The housing boom that was fuelled in these countries by a combination of retired people based in northern Europe seeking to spend time in warmer climates, cheap credits, and lower airline prices came to a halt, as did the boom in Ireland. Immediately in Ireland, employment in construction fell by 12% (-28,000 jobs) in the 12 months to second quarter 2008¹⁵. Migrant labour played a key role in the expansion period of these countries and migrants became the first to suffer.

Foreign worker employment in manufacturing of durable goods was considerable in countries such as the Czech Republic (23.3%), Germany (19.9%) and Italy (13.4%), countries whose automobile industries were particularly hard hit by the financial crisis.

Anecdotal evidence showed an initial increase in nationals taking up jobs in agriculture usually held by migrant workers in some countries. News reports in 2009 said that, “Spaniards are lining up to pick olives for €53 (\$68) a day”¹⁶ in Jaén, Spain’s region generating one-fifth of the world’s production of olives, where employers generally hired mainly foreigners.

However, a detailed report on Italy from May 2011 notes that: “A comparison of trends in employment levels of foreigners and natives shows an important and unexpected feature of the Italian

¹¹ ILO, *Towards a Rights Based Approach to Labour Migration*, International Labour Office, Geneva, 2010.

¹² Miguel Benito, *Labour migration and the systems of social protection: country report Sweden*, Multikulturni Centrum Praha, Czech Republic, 2011

¹³ Ibid

¹⁴ Jungius (9) page xx

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¹⁶ The Wall Street Journal, Thomas Catan, ‘Spain’s Jobs Crisis Leaves Immigrants Out of Work. With Prospects Worse Elsewhere, Few Takers for Government Campaign Offering to pay Legal Foreigners Who Return Home’, January 24, 2009.

labour market: while native employment has declined substantially since the second quarter 2008, foreign employment has continued to grow, although at a slower pace.”¹⁷

Another particularity noted in the same recent report is that lower-skilled foreign workers appear to be weathering crisis better than higher skilled. This was consistent with earlier indications, for example the Labour Chamber of Treviso – a main industrial city and destination for migrants in Italy– declared that by early 2009, the rate of employment among foreigners was higher than among Italians – 68 per cent for foreigners compared to 61 per cent among Italian men and 58 per cent among Italian women. Reports highlighted that the crisis affected particularly migrant workers in the industrial North of Italy; and meanwhile the Italian labour force faced taking jobs ‘nationals’ weren’t previously compelled to do.¹⁸

The situation in health care and other social services is different, however. The Nordic countries, the Netherlands and the UK employ migrants in health and social work (Norway 21.6%; Denmark 19.5%; Sweden 19.3%; Netherlands 15.2%; UK 14.4%). Significant reduction in employment in these sectors has not been reported. On the contrary, in the UK some 39,000 new jobs were created in 2008 in education, health and public administration. The massive cuts since 2010 under the Conservative Party administration have, of course, reversed this trend. However, health care requires specialized knowledge, and labour shortages are common. These countries continuing attracting skilled migrants to fill positions in health care.¹⁹

A report on Germany describes roots of the crisis of migrant labour in Germany as multifold. It notes, however, that central is what may be called a *qualification* and a *recognition crisis*. According to official statistics about 50 per cent of migrants in Germany do not have a vocational qualification. Most foreign-obtained vocational qualifications are not recognised in Germany. Among a third of unemployed *Aussiedler*, and almost 50 per cent of migrants coming from central eastern European states that are receiving ALG II do have a vocational qualification that has not been recognised in Germany!

2. Terms and conditions of employment

Migrant work has long been characterized as low paid and in precarious work relationships. Data shows that even before the crisis, in the OECD zone immigrants are highly represented in temporary work, notably in Belgium, the Czech Republic, Greece, Finland, Hungary, the Netherlands, Norway, Portugal, Spain and the United Kingdom. In these countries the share of immigrants in temporary work exceeded that of native-born by at least 50 per cent.²⁰

A detailed description of migrant concentration in low paid precarious work is in the 2011 report on Germany referred to above.²¹ Its descriptions appear to summarize trends common in a number of countries:

The recent deregulation of the German labour market (in combination with the re-organisation of the welfare system) has played an important role in creating precisely these kind of jobs and work relations, with the liberalisation of temp work in 2004 being *the* decisive step. The liberalisation of temp work has been warmly welcomed by the employing side. Just how attractive temp work is for companies is probably best reflected

¹⁷ Ferruccio Pastore and C Villosio, *Nevertheless Attracting...Italy and Immigration in Times of Crisis*. . LABORatorio R. Revelli, Working Paper no. 106, Torino, Italy, May 2011.

¹⁸ La Stampa, Fabio Poletti, “E la guerra tra poveri si posta nel Nordest”, Torino, February 3, 2009. [in Italian]

¹⁹ Cook (1), page

²⁰ OECD (6), page 12.

²¹ Jungius (9), page 7

by its initial rapid growth in the years following liberalisation, and attempts - most notably by the drug-store chain *Schlecker* - at replacing the entire staff by temp workers.

Foreigners and people with a migrant background constitute an important pool of temp workers. For 2007, it was estimated that about 14 per cent of all temp workers were migrants, with their numbers estimated to rise. The realm of temp work was also where the economic crisis hit most heavily: From June 2008 to June 2009 their numbers were reduced by almost 40 per cent, dropping to about half a million in early 2009. With economic recovery, numbers of temp workers are currently on the rapid rise again. In 2010, the numbers of temp workers rose by 40 per cent and may by now have reached already a million, an all-time high.

What has been already celebrated as “*Jobwunder*” (the almost “miraculous” rise in employment numbers in 2010) is thus directly connected to the renewed boom of temp work. A very telling example is the situation at the 30 major German companies that are listed in the stock market index *DAX*. Here temp work has been thriving, while regular employment has been reduced: The car producer *BMW* for example has reduced 10,000 full time positions in the last three years, while simultaneously hiring 3000 temp workers. A major temp work agency like *Randstad* in the meantime employs as much personnel in Germany (50,000) as the chemical giant *BASF*.²²

Research reports also signal the important presence of migrant workers in informal, unregistered “black” employment (*Schwarzarbeit* in Germany, *Lavoro nero* in Italy). Such work is characterized by complete absence of protection, exploitation and abuse, and, for migrants, a completely vulnerable dependence on employers for their situation. Sectors where informal work prevail include agricultural labour, low-skilled construction work, domestic housekeeping and childcare work in private homes, and personal care-taking for aged or ill persons, as well as the sex work field.

The report on Germany argues that *Schwarzarbeit* is widespread, citing an *IW Köln* estimate “that 95 per cent of all household keepers in Germany are working illegally, their work being utilised in about four million German households.” In context of the crisis, while temporary work may have been reduced, at least for a period of time, it is asserted that irregular or informal work has risen in the aftermath of the crisis. For the year 2010, the increase was estimated at 2 per cent, with illegal work estimated at producing an output as high as 14,65 per cent of the GNP. This estimate of economic share attributable to *Schwarzarbeit* is contested, however, with critics arguing that there is no verifiable grounds for such an estimate, which may be highly exaggerated.

It should be noted, however, that the definition of unregistered and informal work vary, as does the proportion of formally recognized jobs. A general estimate for Italy is that close to 40% of all employment in the country is un or under-reported *lavoro nero* meaning that a large proportion of Italians as well may be engaged in employment ‘off the books,’ including in highly formalized sectors and enterprises.

Also at issue is the widespread tendency to speak of informal and unregistered employment as “illegal work,” a characterisation that entirely confuses situations of hidden employment relationships in many sectors of legal activity risk with illegal activity in such as dealing drugs, money laundering or fencing stolen property.

A report on crisis impact in Sweden highlights that the new labour migration law adopted in December 2008 –after nearly 40 years of restricted migration “lacks control on the employers.” The report observes that:

22 Jungius (9), page 7

the level of vulnerability of migrants has increased. It has brought a greater opportunity for exploitation of migrants by their employers, as the trade unions have withdrawn from the recruitment process. When an employer offers a job for more than one year the Migration Board gives work permission. The Migration Board only controls that the working conditions and the salary are correct. Once the permission is given there is no further control. It has been found out that some employers have had a big movement of people on the payrolls. Moreover, conditions such as long working days and low salaries have been common in Sweden. Those who want to complain can lose their work permits... Furthermore, undocumented migrants have been exposed to practices of exploitation to a much greater degree. Instances of slavery and dishonest practices have occurred.

3. Returns versus arrivals of Migrants

The impact of the crisis on flows of migrant workers has been notable but markedly uneven. Despite initial expectations, migrants did not leave Europe in large numbers. In at least one country situation, stocks have grown although considerably more slowly than before 2008. Both factors may be indicative of continuing, even accelerated structural changes in employment deriving from the crisis, namely a relatively increased proportion of employment of migrants. Further research is merited to verify whether this shift reflects a generalized further precarisation of employment, shifting more work to low paid, flexible migrant workers whose situations and conditions are precarious by definition.

A number of destination-country governments have persistently reiterated pronouncements about need for policies of return and expulsion as well as for stricter barriers to entry. However, while such policies may be politically popular and respond to pressures from anti-migrant political parties, their economic rationality and sustainability is dubious. As the 2009 assessment co-authored by the International Migration Institute director Stephen Castles noted,

One result of the neo-liberal economic policies of the last 30 years has been growing inequality, even within the richest countries, and the emergence of «unwanted» jobs and informal labour markets that requires cheap unskilled labour – mainly provided by migrants. This need may well persist despite the crisis – as happened after 1973.²³

Several European governments introduced financial incentives to encourage unemployed migrants to return home, for example the Czech Republic and Spain.²⁴ The Czech Republic government targeted migrant workers in the construction sector. However, the response to the Czech programme quickly diminished after initial interest. In 2007, Spain received 1 million immigrants from Africa, Latin America and Eastern Europe; it subsequently faced the highest unemployment in the Eurozone. Responses included legislation to cut the number of work permits, restrictions on family reunion visas²⁵ and introduction of a voluntary return programme for unemployed legally resident migrants. Here too, relatively few migrants have taken the offer.²⁶ However, Spain's overall response can be considered exemplary because, while reducing intake, it explicitly rejected policy options to oblige unemployed migrants to repatriate.

It may not be a paradox that in Italy at least, migrant stocks continued to increase despite the crisis. A recent report (2011) notes that the legally resident foreign population in Italy almost tripled in the last decade; it doubled just over the last five years. This high rate of growth in the recent (pre-crisis) past

²³ Castles, Stephen and Vezzoli, Simona: *The global economic crisis and migration: temporary interruption or structural change?* in *Paradigmes*, Issue no. 2, June 2009

²⁴ International Organization for Migration. IOM Policy Brief, January 2009.

²⁵ Ibid.

²⁶ Ibid.

may have only been matched in Spain; most other countries have seen a more gradual increase over a longer period. In Italy, the growth in stocks has continued in the last two years:

The economic recession has not prevented people from migrating to Italy. Throughout 2009 and 2010, inflows have only slightly decreased with respect to 2008 and continued to outweigh outflows very substantially. The positive net migration both in 2009 and 2010 has kept the stock of foreign population growing, although to a lesser extent than in 2008.²⁷

The steady growth in stocks, until the beginning of 2011, suggests, at a first reading, that immigration to Italy has not been strongly affected by the economic crisis so far. This is not just the consequence of a fundamental (and partly physiological) rigidity of legal migration policies, which – in Italy as elsewhere - need some time to adapt to evolving constraints... the persisting immigration growth is also to be connected with a persisting, although controversial and uneven, need for foreign manpower, which has convinced decision-makers to maintain legal channels relatively open also in times of crisis.²⁸

It is mistaken to believe that migrants will serve as a safety valve for developed economies, by providing labour in times of expansion and going away in recession. When economic conditions get bad in rich countries they may be even worse in poorer origin countries. Moreover, migrants are social beings, who put down roots and form relationships in new countries. At times of recession, the motivation to migrate may be even higher than before, and remittances may prove a resilient form of international transfer. Finally, global economic inequality and the demographic imbalances between the ageing populations of the North and the large cohorts of working age persons in the South will remain important factors in generating future migration.²⁹

4. Social protection

As noted in one of the few studies on the subject, migration and social protection is an understudied topic in social protection literature. While the ongoing crisis and its manifestations in Europe appear to provide fertile ground for ploughing under a wide range of social services and social protection mechanisms, the specific impact on migrant workers remains little documented.³⁰ Although the documentation reviewed for this survey may not sustain a firm Europe-wide generalization, limited research available and considerable anecdotal evidence do indicate that migrants are both scapegoated and victimized in the contemporary reform of social protection systems.

Recent studies from Germany and the Netherlands may be indicative. These reports show firstly that restrictions on social protection for migrants have been introduced over the last several years in the context of wider *welfare reform* in those countries, since before the current global crisis set in. Secondly, increasingly restrictive access to social protection and related measures have compelled migrant workers, particularly those in irregular situations, to accept more precarious work and substandard working conditions.

²⁷ Pastore (17) page

²⁸ Pastore (17)

²⁹ Castles (?)

³⁰ This author observes that the crisis appears to serve as justification to dismantle both the concept and the practice of State responsibility to ensure *welfare* or basic well-being of people on its territory, particularly those whose situation places them at risk of insufficient or altogether absent social protection.

A report on the Netherlands summarized three mechanisms reducing social protection for migrants over the last decade:³¹

First, the composition of migrant inflows has been changing over the past 10 years: there has been a decrease in asylum seekers, family reunifications and low-skilled workers, combined with an increase in highly skilled workers. This has led to a reduced need for migrants to use the social protection system, as highly skilled workers are generally less vulnerable to unemployment.

Second, since the 1990s, changes to Dutch Government policy have pushed large numbers of people back onto the labour market, including many migrant workers (who were overrepresented among the “non-active social” benefit recipients).

Third, implementation of the Linkage Act made it practically impossible for migrants to claim social benefits, since this would lead immediately to the loss of their resident permits...

These mechanisms produced an important asymmetry in the treatment of migrant workers: Legally, migrants must pay into a benefits system, from which they are deprived of a right to profit.

A policy consequence linkage with precarious work was highlighted in a subsequent passage:³²

The Linkage Law further ensures that illegal residents cannot make use of the social security system anymore. This, possibly coupled with fiercer labour inspections on legal employment relations has furthermore led to the increase of illegal work outside the observable relations. This shows in the increase of skimpy employment intermediation bureaus that has further increased the dependency of illegal residents on them as well as family and friend networks. In practice, this has led to illegal residents pursuing the same work as before but facing worse work conditions. Illegal employment is common especially in the hotel and catering, personal services, farming and cleaning sectors where labour inspections are relatively more difficult.

A study on Germany summarized *welfare reform* there:

The first goal of the reform was to reduce welfare costs, the second, to introduce a strategy allowing for a quicker re-integration of long-term unemployed into the job market. The latter was meant to be achieved by granting only a minimum basic security whose amount is estimated according to a calculated socio-cultural minimum means of existence (as higher transfers were seen as incentive to remain unemployed). Simultaneously, pressure on recipients was intensified to take up work (e.g. any kind of job offered is “reasonable” and has to be accepted by the recipient, even if wages are undercutting official tariff wages, the job is not corresponding with the qualification of a person, or the offered workplace is located in a different federal state). A rigorous control system was introduced, so in case of violations of regulations sanctions can be executed the percentage of those getting stuck in the “ALG II trap” seems to be on average at 20 per cent. For those trapped, the social situation has mostly deteriorated. The reduced “basic security” has led to increased poverty (especially dramatic among children and juveniles).³³

Specific treatment of immigrants was subsequently noted:

In the current debate on immigration, conservative politicians and media have been especially scandalising an alleged “immigration into our welfare systems”, claiming that

³¹ Siegel, Melissa & Chris de Neubourg: *A Historical Perspective on Immigration and Social Protection in the Netherlands*, Maastricht University & United Nations University, UNU MERIT Working Paper #2011-014, Maastricht, 2011, pages 10-11

³² Siegel & Neubourg (30), page 12

³³ Jungius (7), page

the “high” transfer benefits in Germany are an incentive that attracts massive immigration – counter to all real facts....net migration to Germany is negative, and for nationals from Third countries the barriers “to prevent abuse” have been successively increased, e.g. by the possible denial of family re-union if the family member living in Germany is receiving social benefits.³⁴

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Consequences tracking people –particularly migrants-- into precarious work were also cited:

Nonetheless, 25% of all AFGII recipients in Germany have a migrant background. The system of restructuring unemployment and minimum revenue support appears to track people into and trap in temporary, flexible work, by definition precarious. It is reported that the introduction of ALG II also negatively affected the level of wages by changing the structure of employment relationships by promoting so-called “one-euro” and mini jobs, limited part time and temporary jobs.³⁵

5. Xenophobia and explicit discrimination

Author’s Note: This section to be expanded and refined.

As one of the first reviews of crisis impact already noted at the beginning of 2009, “The risk of discrimination and xenophobia as migrants are mistakenly perceived as taking the jobs of local workers particularly in low-skilled sectors of the labour market.” Manifestations of xenophobic anti-migrant hostility were widely reported in the press, and the perception among national and European anti-discrimination and rights protection agencies is that such incidences have increased as the crisis deepened, and have remained remarkable ever since. However, as of this writing, comprehensive research documenting and quantifying xenophobic behaviour and trends in Europe remains elusive.

A widely remarked early incident took place in the UK where elite petroleum and chemical industry workers across the country manifested against employing foreign –albeit EU origin-- workers³⁶. Expression of similar sentiments has been registered in other migrant host OSCE member countries.

At the official level, “Adoption of more restrictive immigration policies explicitly announced to protect the local labour market and in response to a demand for fewer foreign workers.” could be signalled as reinforcing xenophobic attitudes, by specifically and explicitly tying immigration and migrants to threats of or actual job losses.

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³⁴ *ibid*, page 17

³⁵ *ibid*, page 17

³⁶ BBC News, “Wildcat walkout action continues. Scottish energy workers are continuing with wildcat strike action over the use of foreign labour despite call from the UK Government for it to stop”, February 2, 2009; Yorkshire Post, “Strike action over foreign workers spread”, February 3, 2009; Belfast Telegraph, “Sammy Wilson: Give UK Citizens Jobs before Migrants”.

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6. Gender impact

The impact of the financial crisis on migrant workers affects men and women migrant workers differently, as they are differently clustered in jobs and economic sectors. In Western Europe as well as the USA, a larger proportion of job losses directly impacted men. Women, who tend to be employed in education, health care and other services, are less sensitive to economic fluctuations.³⁷ In recessions, the percentage of families supported by women tends to rise³⁸ OECD data showed that women migrants exceed the presence of men in the health sector, social work and education, precisely those less impacted by the earlier crisis, although more recently directly subject to massive government cuts in a number of EU member countries. In the hotel and restaurant sector, the presence of men and women is almost equal.

A report on the impact of crisis in EU countries noted evidence that the crisis affected the gender composition of recent inflows and of the migrant workforce in general:

Partly as a result of rising unemployment in male-dominated sectors such as construction and continuing demand in more female-dominated sectors such as care work, more women than men in some EU countries immigrated during the economic crisis. Due to changes in the gender composition of inflows and the higher unemployment rates for men than those for women during the economic downturn, female foreign workers increased their share of the total foreign workforce in some EU countries, such as Spain, Italy, and Ireland.³⁹

Current migratory and employment phenomena are extremely complex within and across EU countries, and very difficult to generalize many aspects. The Italian case again:

Since several years, Italy is going through a phase of gender rebalancing of its fast growing immigrant foreign population. Such trend has two main causes: a) a constantly expanding wave of formal family reunions (but also of unauthorised family regroupments); b) a substantial increase in the phenomenon of autonomous female migration (with female migrant workers as first migrants) addressed mostly to the home- and health-care sectors... The combined effect of these two phenomena has been an ever more marked feminization of immigrant population in Italy, with the female component overcoming the male component since 2007. It has to be stressed, however, that such overall demographic rebalancing “hides” very deep and persisting differences in the gender balance among national communities.⁴⁰

7. Irregular migration

A recent database project on irregular migration in the European Union provided detailed estimates indicating that migrants in irregular situations number between 2.8 and 6 million, giving a range of 6% to 12% of total stocks.⁴¹ These figures indicate that the number and proportion of migrants in irregular situations are far fewer than some politicians, government officials and media reports have asserted. However, clear indications of trends in irregular migration to, from or in Europe since the crisis set in are difficult to discern. However, the situation of migrants in irregular situations remains an important policy concern from a range of perspectives.

³⁷ “As layoffs surge, women may pass men in job force”, New York Times, 6 February 2009.

³⁸ *ibid.*

³⁹ IOM ()

⁴⁰ Pastore (9),

⁴¹ CLANDESTINO, *Undocumented Migration: Counting the Uncountable. Data and Trends Across Europe*. Research project funded by the European Commission, DG RTD, FP6, 2007-2009. For more information, visit <http://clandestino.eliamep.gr> (country reports & research briefs) and <http://irregular-migration.hwwi.net> (database).

Most research and commentary concur that “irregular migrants respond to economic and social needs: to occupy jobs which are short of workers and keep prices low enough for continued mass consumption.” It may be safe to say that irregular migration is directly bound up in labour market demand and supply challenges, and that restrictive immigration policies exacerbate rather than control the problem. The existence of a considerable number of workers in irregular and unprotected situations is an immediate concern in addressing precarious work. As noted earlier, irregular migrants are generally both constrained and compelled to accept employment in substandard and precarious conditions.

Observations made in a FRONTEX report on the impact of the crisis on irregular migration are illustrative of recognition in EU policy making and law enforcement circles of what migration itself is about for EU member States:

Illegal migration is clearly migration on a scale affected by immigration policies in receiving countries. In addition, illegal migration is in vast majority of cases related to income-generating/labour migration. This conclusion is partly empirically based, partly derived from available intelligence and partly logically deduced. Consequently, generating income in the destination country is the *raison d'être* for the major part of illegal migration to occur in the first place. As illegal migration to Member States is mainly income-generating migration, regardless of the initial causes or push factors, the focus of the analysis in this assessment is put on the nature of the relationship between illegal migration and labour demand indicators.⁴²

As the Frontex mandated report on impact of the crisis on *illegal* migration explicitly observed:

The employment crisis, given its impact on public opinion, political decisions and social cohesion, is considered the central factor linking the current recession with illegal migration, both influx and efflux, in the EU and border management as a part of immigration policy. The influx of illegal migrants is likely to be much more susceptible to the worsening employment opportunities in Member States than the efflux. Specifically, more illegal migrants are likely to postpone their migration decisions, while those already present in the EU are likely to weather the crisis there. Paradoxically enhanced border management probably keeps in Member States a number of illegal migrants who would have otherwise left. Increased border enforcement at external borders represents a clear disincentive to return, given that possible re-entry would be riskier. This is especially true for those illegal migrants who have entered the EU illegally. Visa overstayers are less likely to be affected by this factor. Unsurprisingly, the first half of 2009 has seen a sharp overall decrease in all relevant indicators of illegal migration apart from asylum applications. However, the decrease in the number of illegal border crossings cannot be attributed to reduced availability of work in Member States alone, given the existence of cooperation arrangements significantly affecting likelihood of being returned on particular routes.⁴³

A report on Belgium⁴⁴ provided detailed observations consistent with data from other sources and countries:

Generally jobs taken before getting permission to remain are casual jobs. This kind of work is often tied to the size of the ‘community’ to which the individuals belong and the networks connecting them. A degree of ethnic stratification may be seen: construction

⁴² FRONTEX: *The impact of the global economic crisis on illegal migration to the EU*. Warsaw, August 2009

⁴³ *ibid*

⁴⁴ Massimo Bartolini: *Labour migration and the systems of social protection: country report Belgium*, Multikulturni Centrum Praha, Czech Republic, 2011

workers are often from Eastern Europe, North Africa or Central Africa; service workers are for the most part African; in “HoReCa” (hotels, restaurants, catering) we found people from South Asia, the Near and Middle East, and Eastern Europe; cleaners are generally from Central or South America, Eastern Europe or Asia; farm workers are from Central Africa, South Asia or the Balkans.

In many European countries it has been observed that workers often lose their jobs after getting permission to remain: their employers do not want to give them an ‘official’ job. Still there are many who continue to work in the unofficial economy. Thus while illegal migrants are in competition with one another in the unofficial jobs market, they also enter into competition with all the country’s workers once their residence becomes legal.

8. Main Concerns

Certain trends related to labour migration are of particular concern in addressing precarious work. Several phenomena suggest a generalized coincidence between crisis conditions and accelerated restructuring of work activity and organization of work towards more precarious terms and conditions:

- △ massive layoffs, plant and operations closures in Europe –notably in higher wage areas
- △ increasing proportions of employment of migrants, both in 3-D jobs and in higher skilled areas, but at low if not lower than prevailing wages and conditions in those sectors
- △ combining of labour inspection and immigration control functions, with consequences that:
 - a) manifestly intimidate migrant workers –especially those in irregular situations--
 - b) undermine effective protection by labour inspection in non-discriminatory enforcement of ‘decent work’ conditions for all workers, notably those in precarious situations
- △ recent legal decisions and policy initiatives that:
 - a) reduce application of trade union rights in cross-border enterprise activity,
 - b) facilitate social dumping
 - c) generally maintain the established trends of deregulating working conditions

Migration --immigration for EU countries-- is key today to the dichotomisation of labour markets into dual labour markets with a higher-paid higher skilled sector on one side and on the other, an expanding sector of low-paid, unprotected “flexible” and precarious work: it is structural transformation *precarising* a large part of work and the work force.

A recent report on Belgium summarized it thusly:

“We also find that very poorly regulated sectors, such as the agricultural sector, often have a rapid turn over, employ immigrants from specific backgrounds and may go through cycles of employing certain nationalities. Along the same lines we find that there are industries that cannot function without new immigrants: agriculture, construction, domestic work, hotels and catering, for example.

The globalization trend with its international competition and extensive offshoring also affects the Belgian job market. Sectors that cannot be offshored – essentially people centred industries and services – can now only function because these jobs are being ‘offshored internally,’ to workers within Belgium.

Furthermore, the requirement for flexibility that is affecting more and more workers in the rich countries means that, if employees are to be more flexible and more available to their employers, some of their own household and family duties have to be taken on by others.

Taken as a whole, this powerful trend is creating a two-tier job market and a proliferation of worker classifications of different statuses (e.g. part-time work, temporary jobs and service vouchers). Keeping up the indigenous employment rate depends, among other

things, on this structural need for foreign workers employed on unregulated conditions, allowing prices to stay low enough to maintain consumption.

In sum, the overall challenge was aptly posed in the report on Germany cited above:

However, regardless of whatever the direct effects of the economic crisis on migrant employment may have been, it needs to be stressed that the structural crisis of migrant employment in Germany long pre-dated the events of September 2008. **In a nutshell, this means is that if one is interested in improving the labour market position of migrants in Germany, it is mandatory to address those structural factors that cause the overall weaker and more vulnerable status on the labour market.** (Emphasis added)⁴⁵

III. A GLOBAL CONTEXT OF INTERNATIONALIZED LABOUR MOBILITY

ILO estimated that 105 million of the total 215 million people living outside their countries of birth or citizenship in 2010 were economically active, engaged in the world of work. This involved most working-age adults, taking into account that the migrant population includes children and aged dependants, meaning that today, some 90% of migration is bound up with work and employment.

Migration today is about internationalized labour and skills mobility to meet labour market and economic development needs. Cross border labour movement serves as instrument to adjust the skills, age and sectoral composition of national and regional labour markets. Migration provides responses to fast-changing needs for skills and personnel resulting from technological advances, changes in market conditions, industrial transformations and changes in the organization of work itself. In countries of ageing populations, migration replenishes declining work forces and injects younger workers, increasing dynamism, innovation and domestic workforce mobility.

Due to economic, demographic and technological changes, increasing numbers of jobs in industrialized economies simply cannot be filled by native-born workers. This remains the case despite the crisis. Ageing of native work forces combined with declining populations is an important factor. By current projections, the populations of Italy will be 25% less in 2050 than in 2000. Latvia and Lithuania have already seen reductions of nearly 10% since 1989 –almost entirely of working age adults. Fertility rates in most of the European Union countries are at or below replacement; in Spain for example, it is about 1.4 children per woman, far below replacement. France is a rare exception.

Migrants remain perceived as exploitable and expendable, a source of cheap, docile and flexible labour, apt for the 3-D -- dirty, dangerous and degrading-- jobs nationals are unavailable for and/or unwilling to take. The vulnerability of migrant workers makes them attractive for some employers, because they can be underpaid, provided with little or no workplace safety and health protections, hired and dismissed on a moments notice, and union organizing is rendered impossible. The crisis seems to make migrant labour even more attractive for some employers who seek advantages in paying vulnerable foreigners less than prevailing wages and ignoring safety and health protections. Before the crisis as well as since, underpayment or non-payment of wages, physical abuse, sexual harassment and violence against women workers, denial and repression of trade union rights have been commonplace for foreign workers.

ILO estimated that, globally, ten to twenty percent of international migrant workers are in irregular situations, without legal authorization or undocumented. Migrants in irregular situations are even more vulnerable to exploitation and abuse. However, the presence of migrants in irregular situations appears to remain tolerated by authorities in certain circumstances in some countries. This coincides with the fact that absence of legal recognition heightens the exploitability and lowers the costs of

⁴⁵ Jungius (9), page 22

migrant labour, in some cases allowing marginally competitive economic activity to remain in business.

Flows of low-skilled migrants remain channelled by clandestine means precisely because of the non-existence of legal migration categories that would allow for their legal entry and stay in countries of employment. Once in host countries, these migrants remain confined to jobs in unstructured or informal sectors, in irregular work and under exploitative conditions of employment.⁴⁶ In contrast, ILO research underlines that legal labour migration channels contribute to reducing both trafficking and the smuggling of migrants.

Historical experience shows that regulating migration and ensuring protection for migrant workers can never be left alone to market mechanisms. Migrant workers are not commodities or just “factors of production”; they are human beings, with all of the attributes and vulnerabilities that that implies.

Recognizing the need for legal protection and regulation, specific international and European legal instruments were long ago elaborated to set minimum standards relating to the protection of migrants, their families, and refugees as well. These instruments also set incentives and parameters for international co-operation on migration.

International law established three fundamental notions that characterize protection for migrants, particularly migrant workers and members of their families:

- Equality of treatment between regular migrant workers and nationals.
- Core universal human rights apply to all human beings, including all migrants.
- A broad array of international labour standards providing for protection in treatment and conditions at work (including occupational safety and health, maximum hours of work, minimum remuneration, non-discrimination, freedom of association, and maternity leave) apply to all workers.

However, protecting migrants –and national workers—and ensuring functional labour markets while upholding social cohesion requires deliberate policy attention and a comprehensive set of measures and institutions to achieve.

Policy and action need to cover administration of immigration, legal protection measures, labour market regulation, labour inspection, social security, and much more. In short, an array of measures are needed to prevent abusive practices and promote decent and productive work for women and men migrants in conditions of freedom, equity, security, and human dignity. Addressing comprehensively these areas is all the more urgent in these disruptive times of crisis.

The ILO articulated useful guidance for developing, strengthening, implementing and evaluating national, regional and international labour migration policies and practices. Guidance for law, policy and practical action in accord with international norms is provided by the [ILO Multilateral Framework on Labour Migration; Non-binding principles and guidelines for a rights-based approach to labour migration.](#)⁴⁷

Migration and increased labour mobility represent long term solutions to labour and skills needs in evolving economies across Europe. Crisis responses need to be taken in context of reinforcing the long term efforts to ensure adequate protection, institutionalised regulation of labour migration, and integration of migrants in decent work.

⁴⁶ M.I. Abella,, "Mondialisation, marchés du travail et mobilité", in *Migrations et avenir*, CIEMI, Paris, Vol. 14, No. 79, January-February 2002.

⁴⁷ ILO, *Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration*, International Labour Office, Geneva, 2006.

IV. EFFECTIVE ACTION AND PRACTICE

The nexus between global economic changes, increased international labour mobility and precarisation of work poses huge challenges for trade union action and organization. Implementing responses from a union perspective requires addressing both the policy context and the specific roles and responsibilities of trade unions. While it is beyond the scope of this paper to elaborate in detail, the findings above amply describe the challenges for the trade union agenda.

As a recent European Trade Union Confederation (ETUC) booklet highlights:

An important element of the ETUC policy is the recognition that, in a growing Europe and an ever-globalizing economy, it is high time to develop an adequate trade union response. Trade unions should, on one hand, make use of their existing and potential strengths, while on the other hand, adapt to changing circumstances – such as increased mobility – within a ‘Europeanization’ of the labour market. The European trade union movement covers a large part of Europe and should be able to develop cross-border cooperation, mutual support systems, innovative ways of organizing and collective bargaining, as well as solve problems related to trade union membership, which is often company or sector-based and not geared towards workers moving across regions and borders.⁴⁸

This brochure is cited at length below; it summarizes needed lines of action for trade unions in organizing, protecting and mobilizing migrant as well as native members; it also appropriately proposes trade union action on national and European policy and legal agendas. Many actions consistent with these lines are already underway. A flurry of national and European-wide conferences and consultations as well as new reports and studies reflect growing trade union engagement on migrants and migration. Examples include initiatives by unions and federations in public service, building and construction, agricultural, hotel and restaurant and other sectoral unions, as well as by European and international confederations.

Reporting on a wide survey of trade union confederations across the EU, the ETUC publication highlights the considerable and growing trade union activity with migrant workers and on migration policy. Many of these interventions complement and support those necessary to combat precarious employment and transform it into decent work.⁴⁹

Trade unions in Europe are and have been very active in helping migrant and mobile workers. Through years and experience, they have understood migration in a horizontal way, developing actions at all levels of intervention. The first level of action is normally focused on the direct intervention with mobile and migrant workers and their initial need for support. This is carried out mainly by federations and local branches. Helping workers at this phase means:

- Offering information about their rights, the labour market and the country in different languages to overcome the initial communications barriers that may exist.
- Supporting work-related claims.
- Giving advice and providing legal services in the case that legal representation in work-related judicial processes is needed.
- Helping workers to organize and fight for their rights.
- Incorporating workers into the union.

⁴⁸ ETUC: *Workplace Europe: Trade Unions Supporting Mobile And Migrant Workers*, European Trade Union Confederation (ETUC), Brussels, 2011.

⁴⁹ *Ibid*, pages 12-13

However, these activities must be complemented by others involving employers, companies and workplaces and typically developed by federations, but also by confederations. The activities at this stage involve:

- Negotiations to introduce systems of respect and the protection of mobile and migrant workers rights into collective agreements and to remove barriers and burdens.
- Agreements to improve integration and non-discrimination, including managing diversity.
- Monitoring workplaces to ensure labour law is respected and cooperation in labour inspections.
- Raising awareness of social dialogue at different levels regarding specific migrant and mobile worker issues.

The ETUC articulates a direct relationship between day to day organizing and defense of migrant workers and acting to shape the policy, legal and societal context:

Due to the close relationship between the situation of migrant and mobile workers and the state of play of migration policy, trade unions have been involved in and developed mechanisms to influence government and public administration decisions affecting these workers. As social partners, trade unions are the driving force in the improvement of labour and living conditions of migrant and mobile workers by:

- Participating in the creation and/or modification of immigration laws: regular and irregular migration, integration, labour market regulations, etc
- Being part of the labour market and social observatories dedicated to migration issues.
- In some countries, being involved in the decision-making process to determine labour market shortages.
- Developing joint programmes with governments and public authorities for the welcoming, informing and supporting of migrant and mobile workers.
- Negotiating and demanding that public authorities remove obstacles and burdens to mobility.
- Working on the recognition of qualifications to avoid brain waste.

Migration and mobility have a serious impact on societies and trade unions understand that to work with local populations in countries of origin and destination is extremely important as well. Therefore, efforts and resources are dedicated to activities such as:

- Awareness of local populations to counter racism and xenophobia and promote integration and equal rights: demonstrations, cultural events, sport activities, etc.
- Organising cooperation agreements with civil society organizations to help in non-work related migration issues.
- Supporting community initiatives and demands related to migrant and mobile persons.
- Being actors in development cooperation with third countries to help avoid the negative consequences of migration in the countries of origin: youth drain, brain drain, labour market shortages, children left behind, etc.

V. PROFILES OF POLICY APPROACHES

This section offers profiles of several comprehensive agendas to remedying areas of risk and vulnerability of migrant workers to discrimination, exclusion and precarious work.

The first example, from Belgium, reflects a policy success story of implementation of non-discrimination measures at all levels, federal, regional, local, by government, employers and civil society actors. These consist of mutually reinforcing legal, policy and practical measures at all levels, with main emphasis on access to and integration in employment. Development of many of the measures long pre-dated the crisis; their existence reflects the long development time required to put

in place an extensive anti-discrimination agenda nation-wide. While no comparative measure is available, it can be postulated that the existence of these measures has impeded wider discrimination under conditions of crisis aggravated by aggressively anti-immigrant political forces with considerable political following and visibility in the country. These measures, among others, were listed in the report *Labour migration and the systems of social protection: country report Belgium*.⁵⁰

1. Belgium: A Broad Approach to Non-Discrimination, Equality of Treatment

A partial and non-evaluative listing of salient initiatives includes:

Federal Level government measures

Diversity in Government: 2009-2010 Action Plan

This diversity action plan set out actions to be undertaken by the unit in charge of diversity FPS Personnel and Organisation, the diversity team at Selor, and the Training Institute of the Federal Administration in 2009 and 2010. A number of high priority actions were identified. These revolved around five areas: awareness of leaders, recruitment and selection, reception and integration, training and development and support of HR and diversity.

http://www.fedweb.belgium.be/fr/publications/broch_po_plan_action_diversite.jsp?referer=cm:119-79055-64

Charter for Diversity

Signed in March 2006 by the Presidents of all the Federal Public Services (FPS – the equivalent of ministries in Belgium), the Charter requires that the executives pledge to promote equality of opportunity and diversity within the federal government.

Selor

Selor, the Recruiting Office Administration, encourages people of foreign origin to participate in the selection of potential job candidates, in order to increase their representation in the administration. This requires a commitment to objectivity and a focus on the skills of the candidate, therefore selections are anonymous. Free testing for discriminatory elements is available and the Selor staff receive diversity training. The emphasis is put on the legal framework on discrimination and managing diversity. The training also helps to develop practical skills for managing diversity in the selection procedure by providing practical tools. <http://www.selor.be/>

Regions

Employment: The project 'Integration of the Newcomers'

Since September 2001 the project 'Integration of the Newcomers' supported by the European Social Fund, was conducted in three regions. As its name suggests, this project was aimed at social and professional integration of newcomers. This manifested itself in initiatives to support employment. This project was coordinated by the regional placement agencies (ACTIRIS VDAB FOREm) which enabled local partners to gain expertise in diversity coaching and in the legal and administrative issues raised by employing foreigners.

<http://www.diversite.be/index.php?action=onderdeel&onderdeel=80&titel=Primoarrivants>

Charter of Diversity in Business: Brussels Region

On 19 December 2005, the first entrepreneurs in Brussels signed the Charter which committed them to encouraging more diversity in their businesses. Currently, some 140 companies have signed this Charter. <http://www.diversite.irisnet.be/La-charte-de-la-diversite.html>

Assistance for Diversity Planning Wallonia

⁵⁰ Massimo Bartolini, *Labour migration and the systems of social protection: country report Belgium*, Multikulturelne Centrum Praha, Czech Republic, 2011

Assistance for diversity planning is available to human resources departments of public and private employers; this strategy is used to manage diversity and fight against discrimination in hiring and employment in the Wallonia region. The Walloon government uses this and the *Priority Action Plan for the Future of Wallonia* to support equality of opportunity in economic development.

<http://diversite.wallonie.be/que.html>

VESOC actieplan Evenredige Arbeidsdeelname in Diversiteit: Flanders Diversity Plan

Each year the Flemish Social and Economic Council set up a 'Diversity' action plan. This supports the establishment of diversity in large enterprises by encouraging internal promotion and provides administrative support on-line. The fight against discrimination is carried out through training and coaching staff, and in collaboration with the Centre for Equal Opportunities and the Fight against Racism.

Anti-discrimination

In October 2007 the 'Action Plan Against Discrimination' was implemented by all public services and also by private contractors working for the government (temping agencies, etc.). Special attention was provided about target groups, including migrants, regarding ways to enable and support these groups. Specifically, this involved four types of action: linking diversity and (anti-) discrimination, recording and reporting complaints, monitoring and research training and the exchange of expertise.

Employment in the social sector

With the inter-departmental agreement of 2006-2010, the social partners committed themselves to the promotion of the employment of foreigners, and persons of foreign origin, in the social sector. Specifically, it was projected that between 2006 and 2010, 10% of jobs would be allocated to foreign persons or persons of foreign origin. To achieve this work was undertaken to make the sector more attractive, through better information and support for potential candidates

2. Germany: Practices to provide social protection and to prevent mistreatment

Several measures and practices to improve the situation of migrants on the labour market and obtain a higher level of social protection for migrants were proposed in a country report on Germany.⁵¹

Protecting temp workers:

An important factor in addressing the issues of job insecurity and mistreatment is a re-evaluation and stronger control of the practices of temporary work agencies. The DGB national union confederation identified as prerequisites, among others, that the principle of equal treatment should be guaranteed from the first day of work on regarding payment and working conditions, that labour contracts should be applied for work in companies with lower standards or no existing tariff regulations, that tariff regulations need to be effective on the Employee Sending Act in order to be applicable to foreign workers sent to Germany, an extension of the co-determination of temp work councils, as well as measures such as not limiting contracts only to one concrete assignment and offering qualification measures for temp workers in periods of "no lease".

Addressing qualification deficits:

A major challenge is lack of vocational qualification and language skills, that drastically limits chances of finding decent work and obliges people to accept precarious work relationships. In Germany, important steps are continuing reforms of the three tier school and pre-school educational system in order to achieve a system allowing children of migrant background to perform well; increasing the level of vocational skills of adults by individual special training, language courses and so on, especially among those receiving welfare support. Re-structuring of practices in job centers needs to take into account coherent training of staff in job centers, including legal trainings in residence and social law, offering of interpreting services as necessary, recruiting and training

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personnel with migrant backgrounds as case workers, as well as a re-evaluation and improving of qualification measures according to migrant recipients' specific needs.

Acknowledgement of foreign-obtained qualifications and experience:

A key factor to reduce unemployment or under-employment of migrants is validating their professional/vocational training, qualifications and experience obtained elsewhere or 'on the job.' The most important components are:

- ▲ facilitate recognition of educational/vocational degrees or certificates obtained in the country of origin, and/or
- ▲ facilitating "re-taking" of a qualifications examination according to German standards,
- ▲ a coherent system of special qualifications equivalency training including legal information and training on specific vocational language and techniques used in Germany.

These measures would help facilitate labour market integration and allow taking up work in the field of one's expertise in Germany.

3. United Kingdom: Social Protection

The research report *Hierarchies of Vulnerability: Country report United Kingdom; Labour migration and the systems of social protection*⁵² presents a clear and substantial agenda to address social protection vulnerabilities of migrant workers and family members. It notes by definition that:

Social protection... [is] all public and private initiatives that provide income or consumption transfers to the poor, protect the vulnerable against livelihood risks, and enhance the social status and rights of the marginalised; with the overall objective of reducing the economic and social vulnerability of the poor, vulnerable and marginalised groups (citing Devereux, Ntale, and Sabates-Wheeler)

The report emphasizes the need to ensure that 'social is put back into social protection', recognizing that social and economic vulnerabilities are intertwined with gender inequality, restricted *citizenship*, and racial, ethnic and class discrimination. Four parts of the broad definition are highlighted: 1) formal social protection access i.e. social security; 2) the portability of such formal social protection; 3) the conditions in the labour market; 4) informal networks and support. These distinctions address underlying structural determinants of the vulnerability of migrants, notably those going beyond the boundaries of the nation state.

Addressing social protection requires not just important reactive programmes that aim to minimise the risks faced by individuals and groups. In broad terms policy measures need to challenge the underlying causes of vulnerability. The two most obvious transformative policy measures would be:

- ▲ *Regularization* of the legal status of the estimated more than half a million migrants in irregular or undocumented situations
- ▲ *Stricter enforcement of workplace rules and regulation*, meaning enhancement of capacity and reach of labour inspection.

However, in the current evident absence of political will to obtain either of these, the economic crisis and deep cuts in public spending mean vulnerabilities are exasperated. Pending what will be a long and hard struggle to generate that political will for transformative measures, the most effective palliative measures may be in the hands of trade unions and social agencies that promote and administer social protection. Two examples of current action include:

Trade Union Guides

Two recent information and orientation projects by the Trades Union Congress (TUC) directly address social protection of migrants – the multilingual *Working in the UK: Your Rights* for labour migrants from A8 countries and the *Safety & Migrant Workers: A Practical Guide for Safety Representatives*.

Working in the UK: Your Rights is targeted directly to migrants and aims to inform them about their rights in the workplace. It is published in Czech, English, Estonian, Hungarian, Latvian, Lithuanian, Polish, Russian, Slovak, French and Spanish. Editions are updated due to perceived need, for example a Russian edition was introduced after TUC encountered many ethnic Russians from the Baltic States. The 16 page pamphlet includes basic workplace rights information (minimum wage, entitlement to sick pay etc.) a section for agency workers, information about the role of unions and advice on how to enforce rights that are not being upheld.

The *Safety & Migrant Workers: A Practical Guide for Safety Representatives* is aimed at unionists and offers practical advice on how to deal with the changed make-up of the workplace. It focusses on informing migrants of their rights in areas of health and safety.

Legal Challenge to the Interim Migration Cap

An important social actor Joint Council for the Welfare of Immigrants (JCWI) launched a legal and public advocacy challenge to a restrictive government policy, seeking to improve the social protection of migrants by reducing insecurities and thus vulnerability. The first interim and now established arbitrary “immigration cap” appeared flawed on many levels: it cannot promise to lower the numbers of migrants because it cannot apply to EU migrants, it may leave skill shortages in key areas of the economy like healthcare, and it will lead to further insecurities for many migrants who need to renew their visas or change conditions of their stay. As the JCWI executive noted:

“We usually represent lower income bracket migrants – care workers, nurses, those kind of skilled people – and when their visa needs to be renewed, they will be seen as a new application once the cap comes into place. Another example is when a student comes here and they change their course of study or their university, they will have to apply to renew their visa and if the quota is full then it will not be given. These are just some of the examples of the indirect ways that the cap will affect people and that's why we're interested in fighting it as a way of protecting those migrants who are already here.”

The JCWI foresees continuing to find ways to challenge the migration cap. As noted in the report, “certainly the JCWI’s campaigning work is more nuanced than simply aligning themselves with those who demand open borders from the business community, yet there remain problems with strengthening the for the ‘good of the economy’ argument in favour of migration, as can be seen in the case of the increasing prevalence of precariousness in the UK’s service economy. “

4. Ireland: Social Partnership Accords on protecting migrants and combating discrimination

The 2006 social partnership agreement *Towards 2016* agreed on a number of measures aimed at strengthening compliance with employment rights, with particular concern for the then substantial and still growing presence of migrant workers across the Irish economy. These measures included the setting up of a statutory agency for employment rights, increased penalties for non-compliance, and a stronger regulation of employment agencies. As with the previous social partnership agreement, a specific section explicitly enumerated agreement on a number of workplace and legal measures to prevent racial and ethnic discrimination, including specifically addressing migrants.

V. STRATEGIC IMPLICATIONS

However the future is designed in Europe, labour migration will be ever more important. And, if it is to be a means for development and well-being rather than a vehicle for expanding precarious employment and exploitation of workers, its governance will have to be brought fully under the rule of law. Obtaining this requires dedicated and arduous strategic efforts by trade unions and their allies.

New evidence based on more accurate forecasting indicates that the world may be on the eve of far greater international mobility as factor of viable economic activity. At the same time, migration has become the key zone of contention between labour and capital regarding the division of wealth between return on capital versus salaries and benefits for working people, regarding terms and conditions of employment, and regarding the extent to which working people can remain organized to articulate and defend their interests and welfare.

As highlighted elsewhere by this author, labour migration –labour and skills mobility—is not being addressed as the primary factor of economic and political integration and thus engine for obtaining development and social welfare. Instead, it is all too predominantly characterized as a problem of national security, as threat to employment and welfare of ‘nationals,’ as a challenge to social and national cohesion, as economic and social cost, etc. Official responses are thus restrictive and nationalist measures precisely when circulation of nearly all other aspects of economic and human activity –capital, goods, services, technology, knowledge-- are internationalized and liberalized.

Migration governance regimes based on control and restriction measures thwart a deliberate, regulated response to growing needs for labour and skills mobility. When labour does move as it must, it is – perhaps not accidentally-- subject to abuse, exploitation and draconian repressive measures. Those who suffer most are the many persons simply obeying –often with little choice—the laws of supply and demand of the globalized capitalist market economy. In this situation, the basic dignity and rights of migrants as workers and human beings are undermined, especially for those in irregular situations.

As evidence above implies, addressing the challenge of precarious work means taking a deliberate and comprehensive approach to shaping migration policy and practice. Useful and appropriate lines for policy intervention were succinctly identified in the 2009 IOM assessments of crisis impact on migrants and migration. The second report concluded that policies should ensure that:⁵³

^ Migrants are not stigmatized for job losses that occur and are protected from discrimination and xenophobia – this also calls for measures to inform the general population and raise awareness in destination countries about the valuable economic and social contributions made by migrants.

^ The rights of migrants are effectively protected, for example in terms of their working and living conditions and in the event of loss of employment. In particular, discrimination in respect of dismissal from employment needs to be avoided.

^ Specific consideration is given to occurrences of multiple layers of discrimination (e.g. women migrants who are discriminated against as women and as migrants).

^ Active labour market policies to stimulate employment are also applied to unemployed migrants in destination countries as well as returning migrants in countries of origin.

^ Measures aimed at the integration of migrants and funding supporting such measures are continued during the economic crisis with a view to guaranteeing an appropriate level of social cohesion. A strong case may also be made for strengthening integration measures given that migrants’ economic and social integration is likely to be hindered by job losses and ineligibility for welfare benefits

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IOM: *The Impact of the Global Financial Crisis on Migrants and Migration*. Policy Brief March 2009

While posed in the context of crisis analysis, these recommendations echo those emerging from ILO research as well as tripartite consultations. They are consistent with comprehensive legal, policy and practical lines for a rights based approach to migration policy articulated in the ILO Multilateral Framework on Labour Migration.⁵⁴

Based on recommendations from constituent unions and federations as well as its own research, the ETUC poses a regional policy advocacy agenda consistent with recommendations by international organizations and expert analysts. These recommendations focus on four main themes: (1) the fight against racism and xenophobia; (2) avoiding social dumping and ensuring labour inspections; (3) influencing the European migration policy agenda; and (4) mutual recognition of union membership. This agenda explicitly links a rights-based approach to governing labour migration with the fight against precarious work in Europe. Key elements are summarized below:⁵⁵

In the fight against racism and xenophobia ETUC emphasizes the importance of maintaining a clear position to avoid protectionist reactions which can occur inside the unions' structures and calls for promoting proper action campaigns. It notes need to take on and struggle against "the increase of conservative positions in the national migration policy." Consistent with upholding a rule of law approach to migration –and labour-- policies, the ETUC calls for ensuring that the EU Charter on Fundamental Rights will be applied equally to third country nationals. It also proposes organizing campaigns to abolish use of stigmatizing language and discourse, notably to underline that "the migrant is not illegal."

In focusing on fighting social dumping and ensuring labour inspections against illegal practises, ETUC emphasizes that **unions must stress the importance of fighting precariousness:**

- ⤴ Launch a specific campaign focused on the decent salaries of posted and agency workers;
- ⤴ Research illegal practises, such as trafficking of human beings;
- ⤴ Avoid social and labour exclusion by supporting initiatives to integrate migrant workers;
- ⤴ Tackle circular migration considering the difficulty in ensuring labour rights and social security rights of migrants, as well as the difficulty in managing labour data.

On European Migration Policy, ETUC frames –appropriately-- the trade union advocacy agenda as "finding the right model to protect migrants, demanding the respect of the regulation and create a new legal framework on a better migrant protection." It calls for:

- ⤴ Putting migration issues at the top of the agenda in the European Commission, the European Parliament, and the Council to push regulations and directives in favour of mobile and migrant workers. Ensuring equal treatment inside its territory is a duty of the EU.
- ⤴ Monitoring the transposition into national law of EU regulations,
- ⤴ Promoting use of legal instruments to pursue the human rights of migrant workers, such as the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints as well as procedures referred to in Articles 24 and 26 of the ILO Constitution.
- ⤴ Intensifying actions and campaigns for ratification of ILO Conventions 97 and 143 on migrant workers and the (UN) International Convention on rights of migrant workers and their families, and relevant Council of Europe instruments.

In proposing Mutual Recognition of Membership as a fourth main focus, the ETUC-trade union policy agenda highlights the importance of migrants in the world of work for unions themselves. It emphasises "we must tackle the issue of lack of solidarity among Member States and EU institutions regarding mobility, migration and social policies," and stresses that "recognition of membership is one of the most important flagships of the ETUC and its union members." This is rightly portrayed as a basis for European trade unionism to achieve common positions in order to enhance economic and social governance, "giving priority to a social Europe." In ETUC's words:

⁵⁴ Available at: http://www.ilo.org/public/libdoc/ilo/2006/106B09_343_engl.pdf

⁵⁵ ETUC, pages 54-57

It is well known that the recognition of membership benefits the unions' policy; it increases the number of affiliates; and it does not entail major financial increases. On the contrary, the increase of affiliates boosted by membership card campaigns reinforces the base of the unions with sustainable growth in a more efficient manner than other possible affiliation.⁵⁶

As this report illustrates, migration and deteriorating treatment of migrant workers across a Europe in crisis fuel the expansion of precarious employment and exploitative work. However, expansion of trade union solidarity and action, together with identification of coherent policy responses offer hope. Maybe not of reversing the trends in the near future; the correlation of forces between labour and capital foretells otherwise. Nonetheless, the findings in this report suggest that there is hope and there are concrete elements to build the long term, concerted fight necessary to restore *decent work for all* as the norm across Europe.

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⁵⁶ ETUC, page 57

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